

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ANTONIO LOPEZ SERNA,

Petitioner,

v.

No. 24-cv-663 KWR/SCY

FNU YOUNG, *et al.*,

Respondents.

**ORDER DENYING MOTION TO APPOINT COUNSEL AND
ORDER TO SHOW CAUSE**

This matter comes before the Court on Petitioner's Motions to Appoint Counsel, filed in connection with his habeas petition. *See* Docs. 3 and 7. This matter is also before the Court pursuant to a review of the record following Plaintiff's release from custody.

1. Motions to Appoint Counsel

There is no constitutional right to counsel in a habeas proceeding. *See Coronado v. Ward*, 517 F.3d 1212, 1218 (10th Cir. 2008). Unless and until an evidentiary hearing is held, “[t]he decision to appoint counsel is left to the sound discretion of the district court.” *Engberg v. Wyoming*, 265 F.3d 1109, 1122 (10th Cir. 2001). Factors guiding such discretion include “the merits of the litigant’s claims, the nature of the factual issues raised in the claims, the litigant’s ability to present his claims, and the complexity of the legal issues raised by the claims.” *Williams v. Meese*, 926 F.2d 994, 996 (10th Cir. 1991).

Considering these factors, the Court is not persuaded that habeas counsel should be appointed. Petitioner’s claims do not present particularly complex legal or factual issues. Petitioner appears to have an adequate understanding of the issues and to be representing his

interests in a capable manner. The Motions to Appoint Counsel, Docs. 4 and 7, will therefore be denied without prejudice.

2. Release from Custody

Petitioner filed his habeas petition on June 28, 2024, while he was incarcerated at the Lea County Correctional Facility. Doc. 1. On December 2, 2024, Petitioner filed a notice of change of address to the Southern New Mexico Correctional Facility. Doc. 6. The New Mexico Corrections Department inmate locator website reflects Petitioner has been released from the Southern New Mexico Correctional Facility, and he has not provided a current address as required by D.N.M. LR-Civ. 83.6. *See* <https://www.cd.nm.gov/offender-search>.

IT IS THEREFORE ORDERED that Petitioner's Motions to Appoint Counsel (**Docs. 4 and 7**) are **DENIED** without prejudice.

IT IS FURTHER ORDERED that Plaintiff shall notify the Clerk in writing of his new address within thirty (30) days of entry of this Order. The failure to timely comply may result in dismissal of this action without further notice.



UNITED STATES MAGISTRATE JUDGE